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February 1, 1994

FN: 011-94/c

93-297

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Reference FCC Docket No. 93-297
 In the Matter of The Establishment
 of Commission Rules concerning the
 Administration of Accounting
 Authorities in the Maritime Mobile
 and the Maritime Mobile-Satellite
 Radio Service Except for Distress
 and Safety Communications.

Office of the Secretary
 Federal Communications Commission
 Washington, DC 20554

Dear Commissioners:

Mackay Communications, Inc. has received from the Federal Communications Commission a Notice of Proposed Rule Making dated November 19, 1993 pertaining to FCC Docket No. 93-297. Mackay wishes to submit the following comments and five copies of this letter for your consideration.

General Comments

1. The Commission has not specified the time frame for when the proposed procedural rules will become effective. The notification and effective date of the adopted procedural rules is critical to existing RPOA's because the Commission has established a time deadline for receipt of application for consideration. Mackay wants to ensure that there is sufficient notification to enable existing Accounting Authorities adequate time to complete the application process.
2. The Commission proposes to authorize foreign Accounting Authorities the right to settle traffic for U. S. flag vessels. Mackay Communications does not object to this proposal provided that U. S. flagged vessels of foreign Accounting Authorities are required to pay the same "federal excise taxes" that vessels represented by U. S. Accounting Authorities are required to pay.

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3. In Paragraph 20 the Commission proposes to "grandfather" all current Accounting Authorities. Mackay encourages the Commission to "grandfather" current Accounting Authorities, especially those who have provided this service for over thirty years as a corporation incorporated in the U. S. A. To subject existing Accounting Authorities to lottery type selection based upon the U. S. Mail minimizes the service that these Accounting Authorities have provided over the years.

Comments Specific to Proposed Part 3 - Authorization of Accounting Authorities in Maritime and Maritime Mobile-Satellite Radio Services

1. 3.10 Eligibility - Basic Qualifications

The Commission should give strong consideration to prohibiting the FCC from operating as an RPOA so that they may be a neutral party and enforce compliance of all regulations without creating any potential conflicts of interest.

The Commission may also want to consider a requirement for qualification be that the applicant be an Accounting Authority offering their services to any U. S. flagged vessel, not just vessels that the applicant may own directly or indirectly.

Finally, the Commission should consider disallowing owners of coast stations or coast earth stations to operate as Accounting Authorities.

2. 3.11 - Location of Settlement Operations

Many administrations do not allow U. S. based RPOA's to operate as Accounting Authorities under their administration. The Commission should consider prohibiting foreign based RPOA's from settling traffic for U. S. flagged vessels unless their administration has a reciprocal agreement allowing U. S. Accounting Authorities to operate in their administration.

3. 3.21 - Application Procedures Order of Consideration

The Commission should strongly consider giving existing U. S. based RPOA's preference in order of consideration regardless of when the application was received in relation to other applications. Existing Accounting Authorities have previously demonstrated their ability to settle traffic and the marketplace has decided the adequacy of their services over a number of years.

4. 3.22 Section (b) - Number of Accounting Authority Codes per Applicant

The Commission should establish a criteria and a set of requirements for the reassignment of an Accounting Authority Identification Code. A company that has worked and invested to establish a viable RPOA should have the opportunity to build upon or be rewarded for the investment that has been developed. This section is not definitive enough to enable companies looking to sell or acquire businesses that may also be RPOA's the assurances that they may be able to continue as an RPOA if the business is acquired, merged or sold. In other administrations there have been sales of AAIC's to other companies and the administrations have allowed continued use of the existing Accounting Authority Identification Code.

5. 3.24 - Evidence of Financial Responsibility

The Commission should give consideration to establishing a definitive criteria as to what constitutes sound financial status and how the Commission will monitor this status in the future. The Commission should consider requiring the applicant to be a business with established accounting procedures and formal audited financial statements.

6. 3.28 - Denial of Privilege

The Commission has stated some of the reasons for denial of privilege but there is no mention of a procedure to be followed or the opportunity for appeals if the Commission decides to deny privilege.

This procedure and appeals process should also be available for actions taken by the Commission under Section 3.72, Grounds for Further Enforcement Action.

7. 3.29 - Notification of Authorization

What method will the Commission use to obtain public comment on applications and who will evaluate the validity of the public comments received regarding a specific applicant. An applicant could expend a significant amount of time and money responding to unsubstantiated comments or accusations.

8. 3.49 - Agreement to be Audited

Mackay understands the need for enforcement but feels the Commission should be more specific regarding the extent, time and scope of audits proposed by the FCC.

As an Accounting Authority, Mackay welcomes the establishment of procedures to ensure proper compliance of FCC regulations.

Very truly yours,

A handwritten signature in cursive script, reading "Francis C. Neary". The signature is written in dark ink and is positioned above the printed name and title.

Francis C. Neary
Vice President - Controller

FN/tm